

**SENATE . . . . . No. 876****The Commonwealth of Massachusetts**

PRESENTED BY:

**Richard T. Moore**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

**An Act to Promote the Nursing Profession and Promote Safe Patient Care.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard T. Moore	Worcester and Norfolk
Bill Bowles	2nd Bristol
Susan C. Tucker	Second Essex and Middlesex
Richard J. Ross	9th Norfolk
Robert M. Koczera	11th Bristol
Michael R. Knapik	Second Hampden and Hampshire
John D. Keenan	7th Essex
Scott P. Brown	Norfolk, Bristol and Middlesex
F. Jay Barrows	1st Bristol
Bradley H. Jones, Jr.	20th Middlesex
Stanley C. Rosenberg	Hampshire and Franklin
Donald F. Humason, Jr.	4th Hampden
Todd M. Smola	1st Hampden
Bruce E. Tarr	First Essex and Middlesex
Susan C. Fargo	Third Middlesex
Martha M. Walz	8th Suffolk
Benjamin Swan	11th Hampden
Michael O. Moore	Second Worcester
Karen E. Spilka	Second Middlesex and Norfolk

Gale D. Candaras

Kay Khan

First Hampden and Hampshire

11th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S01244 OF 2007-2008.]

## **The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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### **AN ACT TO PROMOTE THE NURSING PROFESSION AND PROMOTE SAFE PATIENT CARE.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           **SECTION 1.** Chapter 6A of the General Laws is hereby amended by inserting after  
2   section 16G the following section:—

3           Section 16H. A nursing advisory board is hereby established within, but not subject to,  
4   the control of the executive office of health and human services. The advisory board shall  
5   consist of 8 members who shall have a demonstrated background in nursing or health services  
6   research and who shall represent the continuum of health care settings and services, including,  
7   but not limited to, long-term institutional care, acute care, community-based care, public health,  
8   school care and higher education in nursing. The members shall be appointed by the governor  
9   from a list of 10 individuals recommended by the board of registration in nursing and a list of 10  
10   persons recommended by the Massachusetts Center for Nursing, Inc. The advisory board shall  
11   elect a chair from among its members and adopt by-laws for its proceedings. Each of the 8  
12   members appointed by the governor shall serve for a term of 3 years, except that in making his

initial appointments, the governor shall appoint 2 members to serve for terms of 1 year, 2 members to serve for terms of 2 years and 4 members to serve for terms of 3 years. Persons may be appointed to fill vacancies who shall serve for the unexpired term. No member shall serve more than 2 consecutive full terms.

The advisory board shall:

(a) advise the governor and the general court on matters related to the practice of nursing, including the shortage of nurses across the commonwealth in all settings and services, including long-term institutional care, acute care, community-based care, public health, school care and higher education in nursing;

(b) develop a research agenda, apply for federal and private research grants, and commission and fund research projects to fulfill the agenda;

(c) recommend policy initiatives to the governor and the general court;

(d) prepare an annual report and disseminate the report to the governor, the general court, the secretary of health and human services, the director of labor and workforce development and the commissioner of public health; and

(e) consider the use of current government resources, including, but not limited to, the Workforce Training Fund as may be provided for in the general appropriations act. Any funds allocated to the advisory board shall be deposited with the state treasurer and may be expended by the advisory board in accordance with the conditions of the grants, without specific appropriation. The advisory board may expend for services and other expenses any amounts that

the general court may appropriate. The advisory board shall conduct at least 1 public hearing during each year.

**SECTION 2.** Chapter 10 of the General Laws is hereby amended by adding the following section:-

Section 75. There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Clara Barton Nursing Excellence Trust Fund. The fund shall consist of all revenues from public and private sources as appropriations, gifts, grants or donations, and from the federal government as reimbursements, grants-in-aid or other receipts to further the purposes of the fund in accordance with the provisions of sections 19F to 19K, inclusive, of chapter 15A, and any interest or investment earnings on such revenues. The revenues credited to the fund under this section shall remain in the fund and shall be expended, without further appropriation, for applications pursuant to said sections 19F to 19K, inclusive, of said chapter 15A. The state treasurer shall deposit and invest monies in the fund in accordance with the sections 34, 34A and 38 of chapter 29 in such a manner as to secure the highest rate of return consistent with the safety of the fund. The fund shall be expended only for the purposes stated in said sections 19F to 19K, inclusive, of said chapter 15A, at the direction of the chancellor of the system of public higher education. On February 1 of each year, the state treasurer shall notify the chancellor of any projected interest and investment earnings available for expenditure from the fund for each fiscal year.

**SECTION 3.** Chapter 15A of the General Laws is hereby amended by inserting after section 19E the following 6 sections:-

Section 19F. The department of higher education shall, subject to appropriation, establish a nursing student loan repayment program, to be known as the Clara Barton Nursing Loan Repayment Program, for the purpose of encouraging existing nurses or nurse student graduates committed to becoming clinical instructors or nursing faculty to teach nursing within the commonwealth by providing financial assistance for the repayment of qualified education loans and a nursing faculty position payment program, to be known as the Clara Barton Nurse Educators Assistance Program, by providing compensation to health care facilities to cover nurse scheduled work time spent teaching, as further explained in this section. The department shall adopt guidelines governing the implementation of the programs, which shall include, but need not be limited to, the following:

(1) eligibility for the loan repayment program shall be limited to persons who have graduated in the top 25 percent of their undergraduate or graduate class, as certified by the college, university or school of nursing attended by such applicant, or who are otherwise qualified;

(2) eligibility for the loan repayment program shall be limited to persons licensed to practice nursing in the commonwealth or entering the nursing profession after September 1, 2009, and eligibility for the nurse educators assistance program shall be limited to persons entering the teaching of nursing profession at a college, university or school of nursing within the commonwealth after that date;

(3) the commonwealth shall repay a participant's student loan at a rate not to exceed \$200 per month for a period not to exceed 48 months; provided, however, that participants who work

less than full time shall receive loan repayment amounts in direct proportion to the percentage of full time worked;

(4) repayment shall be made to the participant annually upon the presentation by the participant of satisfactory evidence of payments under the loan;

(5) payments by the commonwealth shall cover only loan payments made by a participant during the months when the participant is employed as a nurse in facilities including, but not limited to, acute care hospitals, long-term care or chronic disease hospitals, acute inpatient rehabilitation hospitals, public health hospitals, psychiatric and mental health clinics or hospitals, community or neighborhood health centers, rehabilitation centers or nursing homes, or as a home health, school or public health nurse in the commonwealth, or is employed to teach nursing at a college, university, or school of nursing in the commonwealth.

(6) Payments by the commonwealth shall not commence until a participant has been employed as a nurse in the commonwealth, or as a teacher of nursing at a college, university or school of nursing in the commonwealth, for at least 1 year;

(7) Participants shall be employed as a nurse in the commonwealth, or as a teacher of nursing at a college, university or school of nursing in the commonwealth, for a minimum of 4 years during the loan repayment period, or reimburse the commonwealth for the expense incurred during the repayment period;

(8) in the case of those employed as nurses, the department may limit the program to those who work in communities designated by the department of public health, in consultation with the United States Department of Health and Human Services and the Center for Health Professions at Worcester State College, as underserved communities; and

(9) the program shall set forth an affirmative action policy and specific annual affirmative action goals and the department shall annually publish a report detailing its efforts to publicize the loan repayment program in order to advance the goals of this affirmative action policy and its success in meeting those goals.

For the purposes of this section, “qualified education loan” shall mean any indebtedness including interest on indebtedness incurred to pay tuition or other direct expenses incurred in connection with the pursuit of a practical or diploma nursing program or an associate’s, baccalaureate or graduate degree by an applicant, but shall be limited to any loan which was or is administered by the financial aid office of a practical or diploma nursing program, 2-year or 4-year college, university or school of nursing at which the applicant was enrolled as a practical or diploma nursing school student, or as an undergraduate or graduate student, and which has been secured through a state or federal student loan program, or which was or is administered by a commercial or institutional lender.

Section 19G. The department of higher education, subject to appropriation, shall establish an expert nursing corps program, to be known as the Clara Barton Expert Nursing Corps Program, for the purpose of building a group of recognized nurses of high achievement in the profession who shall serve to mentor incoming or novice nurses and to further the goals of the nursing profession. The department shall adopt guidelines governing the implementation of the program. These guidelines shall include, but need not be limited to, the following provisions:

(1) the department may select for participation in the program expert nurses who have obtained specialty, modular or advanced practice certification from the American Nurses Credentialing Center, who remain in good standing with the board of registration in nursing, who



are current on their continuing education units, and who agree to mentor incoming or novice nurses; provided, however, that the department may develop and include alternatives to certification by the such American Nurses Credentialing Center program if those alternatives maintain equivalent or higher standards of excellence in the practice of nursing;

(2) the department, subject to appropriation, may provide expert nurses with partial or full reimbursement for the assessment costs of the American Nurses Credentialing Center certification and shall provide expert nurses with ongoing salary bonuses that shall be limited to \$5,000 per year not to exceed 5 years; provided, however, that such expert nurses shall remain in good standing with the board of registration in nursing, shall be employed in nursing in the commonwealth, and continue to mentor incoming or novice nurses; and provided further that the department shall require evaluation on an annual basis of the efficacy of the incentives provided to participants in the expert nurse mentoring program;

(3) the department may authorize grants, in addition to the bonuses paid to expert nurse, to the health care facility, school district, local health agency, home health agency or nursing home in the commonwealth that employees the expert nurse to facilitate time for the expert nurse to engage in mentoring activity; to increase the number of clinical facilities or to allow for the hiring of more nurse faculty; provided however, that the health care facility, school district, local health agency, home health agency or nursing home in the commonwealth shall maintain the expert nurse's salary irrespective of the expert nurse's salary bonus;

(4) the department shall set forth an outreach plan to attract underrepresented populations and nurse specialists in the nursing profession in areas which are designated by the department of

public health, in consultation with the United States Department of Health and Human Services,  
as underserved communities;

(5) the department, subject to appropriation, may provide experienced nurses who have graduate degrees and such courses in education as the department may determine, who have agreed to teach in a nursing education program in the commonwealth with ongoing salary bonuses to reasonably compensate for the difference between clinical nursing salaries and nursing faculty salaries; provided, however, that these ongoing salary bonuses for these nurse scholars shall be limited to \$25,000 per year and shall not exceed 10 years for nursing faculty who carry a full teaching load as defined by the institution; provided further, that such nurse scholars shall remain in good standing with the board of registration in nursing, shall be employed in nursing education in the commonwealth, and shall continue to educate nurses; and provided further, that an institution of higher education that employs a nurse scholar shall maintain the nurse scholar's salary at a professional level irrespective of the expert nurse's salary bonus.

Section 19H. The department of higher education shall make available grants to institutions of higher education and health care institutions in the commonwealth for the purpose of fostering partnerships between higher education institutions and clinical agencies that promote the recruitment and retention of nurses. These grants may also be made available to such institutions for the purpose of establishing and maintaining nurse mentoring or nursing internship programs. The department shall adopt guidelines governing the implementation of this section.

Section 19I. The department of higher education shall, subject to appropriation, to establish a scholarship program, to be known as the Clara Barton Scholarship Program, to

provide students in approved colleges, universities and schools of nursing in the Commonwealth with scholarships for tuition and fees for the purpose of encouraging outstanding Massachusetts' students to work as nurses in facilities including, but not limited to, acute care hospitals, psychiatric and mental health clinics or hospitals, community or neighborhood health centers or long-term care hospitals, inpatient rehabilitation facilities and other rehabilitation centers, nursing homes, or as a home health, school or public health nurse in the commonwealth, or to teach nursing in colleges, universities or schools of nursing in the commonwealth. The department shall adopt guidelines governing the implementation of the program. Colleges, universities and schools of nursing in the commonwealth may administer the Clara Barton Scholarship Program and select recipients, in accordance with these guidelines. Scholarships may be made available to full or part-time matriculating students in courses of study leading to a degree in nursing or the teaching of nursing. Recipients shall be residents of the commonwealth and outstanding prospects for the nursing profession based on objective measures such as leadership skills, clinical knowledge, class rank, test scores and grade point average, and such other criteria as the department may determine, such as income need. In any given year, the department may target awards to students from geographic and nurse specialty areas in the commonwealth determined by the department of public health, in consultation with the United States Department of Health and Human Services, and the Center for Health Professions at Worcester State College, to be areas experiencing an acute shortage of nurses. A scholarship recipient attending a public or private institution of higher education in the commonwealth shall receive no more than a \$3,500 scholarship for each academic semester that he remains enrolled at such institution and remains in good standing. The names of recipients of such scholarships shall remain confidential unless the recipient waives this confidentiality in writing. The

department may also, subject to appropriation, provide a scholarship recipient with a housing voucher, in a form and manner as the department may determine, which shall be equal to but not more than \$200 per month, that may be utilized by the recipient to assist in paying housing costs, including rent or mortgage payments, while he is enrolled in good standing in the college, university or school of nursing.

The department, in coordination with the board of education and colleges, universities and schools of nursing in the commonwealth, shall aggressively market the existence of the program to high school students to encourage outstanding candidates to apply to nursing or the teaching of nursing programs in institutions of higher education in the commonwealth. This marketing shall focus on candidates who would otherwise not consider a career in nursing or the teaching of nursing. The department shall set forth an outreach plan to attract underrepresented populations to the nursing profession. Recipients shall be employed as nurses in the commonwealth, or as teachers of nursing at a college, university or school of nursing in the commonwealth, for a minimum of 3 years following graduation. A recipient who participates in the program but does not complete his college education within 7 years of entering college or who fails to complete his 3 year nursing commitment within 7 years after graduation from college or whose license to practice in the commonwealth is not maintained in good standing, or who fails to complete his 3-year teaching commitment within 7 years after graduation from college or from a graduate school, if such is required for teaching nursing at a college, university or school of nursing, shall be obligated to repay the commonwealth any tuition, fees and housing voucher payments advanced to him, and with interest as set by the department.

Section 19J. The department of higher education shall, subject to appropriation, develop a program to provide matching grants to any hospital that commits resources or personnel to nurse

education programs. The program shall provide a dollar-for-dollar match for any funds committed by a hospital to pay for nurse faculty positions in publicly-funded schools of nursing, including the costs of providing hospital personnel loaned to their schools of nursing.

Section 19K. The department of higher education shall, subject to appropriation, designate a portion of the Clara Barton Nursing Excellence Trust Fund, established in section 75 of chapter 10, to be used for refresher courses and retraining at accredited schools of nursing for licensed registered nurses returning to bedside care after an absence of more than 1 year, in accordance with standards as shall be approved by the board of registration in nursing.

**SECTION 4.** Chapter 111 of the general laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 56 the following 6 sections:-

Section 56A. In sections 56A to 56F, inclusive, the following words shall have the following meanings:

“Acuity model”, an assessment tool selected and implemented by a hospital, as recommended by a nursing care committee, that assesses the complexity of patient care needs requiring professional nursing care and skills and aligns patient care needs and nursing skills consistent with professional nursing standards.

“Department”, the department of public health.

“Direct patient care”, care provided by a registered nurse with direct responsibility to oversee or carry out medical regimens or nursing care for 1 or more patients.

“Health care workforce”, personnel that have an effect upon the delivery of quality care to patients, including but not limited to, licensed practical nurses, unlicensed assistive personnel

229 or other service, maintenance, clerical, professional or technical workers and other health care  
230 workers.

231 “Hospital”, a hospital licensed under section 51 of chapter 111, the teaching hospital of  
232 the University of Massachusetts medical school, a licensed private or state-owned and state-  
233 operated general acute care hospital, or an acute care unit within a state-operated facility;  
234 provided, however, that “hospital” shall not include a licensed non-acute care hospital classified  
235 as an inpatient rehabilitation facility, an inpatient psychiatric facility, an inpatient substance  
236 abuse facility, or a long term care hospital by the federal Centers for Medicare and Medicaid  
237 Services.

238 “Nurse”, a registered nurse licensed under section 74 of chapter 112 or a licensed  
239 practical nurse licensed under section 74A of said chapter 112.

240 “Nursing care committee”, an existing or newly created hospital-wide committee of  
241 nurses whose functions, in part or in whole, contribute to the development, recommendation and  
242 review of the hospital’s nurse staffing plan established pursuant to subsection (d).

243 “Nursing care hours”, the number of hours worked by nursing staff that have direct  
244 patient care responsibilities for more than 50 per cent of their shift.

245 “On-call”, time spent by a nurse who is not currently working on the premises of the  
246 hospital, and who is either compensated for availability or has agreed as a condition of  
247 employment to be available to return to the hospital on short notice if the need arises.

248 “Overtime”, the hours worked by a nurse to deliver patient care, beyond the  
249 predetermined and regularly scheduled hours.

“Patient days”, the daily average of the number of patients on the unit, as counted at least once during each shift for 24 hours.

“Staffing plan”, a written hospital-wide staffing plan for guiding the assignment of patient care nursing staff based on multiple nurse and patient considerations that yield minimum staffing levels for inpatient care units and the adopted acuity model aligning patient care needs with nursing skills required for quality patient care consistent with professional nursing standards.

Section 56B. (a) Every acute care hospital shall implement a staffing plan, based on the recommendation of a nursing care committee, which provides for minimum direct care professional registered nurse-to-patient staffing needs for each inpatient care unit. The staffing plan shall include, but not be limited to, the following:

(1) Consideration of the complexity of complete care, assessment on patient admission, volume of patient admissions, discharges and transfers, evaluation of progress of a patient’s health status, ongoing physical assessments, planning for a patient’s discharge, assessment after a change in patient condition and assessment of the need for patient referrals.

(2) the complexity of clinical professional nursing judgment needed to design and implement a patient’s nursing care plan, the need for specialized equipment and technology, the skill mix of other personnel providing or supporting direct patient care, and involvement in quality improvement activities, professional preparation and experience.

(3) patient acuity and the number of patients for whom care is being provided;

(4) the requirement that ongoing assessments of a unit's patient acuity levels and nursing staff needed shall be routinely made by the unit nurse manager or his designee;

(5) the identification of additional registered nurses available for direct patient care when patients' unexpected needs exceed the planned workload for direct care staff; and

(6) mechanisms for the appropriate adjustments of staffing levels that may be required during initial orientation and training periods for nurses assigned to new units.

(b) In order to provide staffing flexibility to meet patient needs, every acute care hospital shall identify an acuity model for adjusting the staffing plan for each inpatient care unit.

(c) The written staffing plan shall be posted in a conspicuous and accessible location for both patients and direct care staff and shall be posted in electronic format, as determined by regulation promulgated by the department. The plan shall be published on the department website and available to the public.

(d) Every acute care hospital shall have a nursing care committee. A hospital shall appoint members of a committee whereby membership limited to the committee's hospital's employees and at least 50 per cent of its members shall be registered nurses providing direct patient care. A nursing care committee's recommendations shall be given significant regard and weight in the hospital's adoption and implementation of a staffing plan. A nursing care committee shall recommend a plan for the hospital based on the principles from the staffing components set forth in subsection (c) and shall provide input and feedback on the following:

(i) selection, implementation and evaluation of minimum staffing levels for inpatient care units;



(ii) selection, implementation and evaluation of an acuity model to provide staffing flexibility that aligns changing patient acuity with nursing skills required;

(iii) Selection, implementation and evaluation of a staffing plan incorporating the items described in clauses (i) and (ii); and

.(iv) nurse-to-patient staffing guidelines for all inpatient areas; and

(v) current acuity tools and measures in use.

(e) A nursing care committee shall address the items described in subsections (b) through (e) semi-annually.

(f) The implementation of a staffing plan shall not result in the understaffing or reductions in staffing levels of the health care workforce.

(g) Nothing in this section shall be construed to limit, alter or modify the terms, conditions or provisions of a collective bargaining agreement entered into by the hospital.

(h) A staffing plan shall be approved by the hospital governing board prior to its filing with the department.

(j) A hospital shall file its plan with the department not later than 2 weeks after the start of the hospital's fiscal year.

(j) Each hospital shall include with its filing an aggregate review of significant variations between its actual staffing for the preceding hospital fiscal year staffing plan filed with the department for that preceding year, and, if significant variations occurred, a description of the actions taken by the hospital..

(k) Current nursing staff schedules shall be available upon request at each patient care unit. Each schedule shall list the daily assigned nursing personnel and average daily census for the unit. The actual nurse staffing assignment roster for each patient care unit shall be available to the department upon request. Upon a roster's expiration, the hospital shall retain the roster for 5 years from the date of its expiration.

(l) The department shall establish, maintain and advertise a toll-free telephone line and website for nurses, nursing support staff, patients and patient family members to report alleged violations of a staffing plan. The department shall promulgate regulations for the implementation of these services and for investigating any alleged violation registered through these services.

Section 56C. (a) If a hospital fails to file its staffing plan within the time required by law, the department shall give immediate notice by mail, postage prepaid, to the hospital of its default. If the hospital fails to file a report within 21 days after such notice of default has been received, the department shall impose a late fine of \$1,000 per day. The hospital may request an administrative review, in writing, within 15 days of the date it receives notice of the imposition of a late fine by the department. The request shall state the reasons why the hospital considers the imposition of the late fine to be incorrect and shall be accompanied by any supporting evidence and arguments. The department shall notify the hospital, in writing, of the results of the administrative review within 20 days of receipt of a request for review. Failure of the department to respond within that time shall be considered confirmation of the imposition of the late fine. The department may require a hospital to resubmit a staffing plan if the plan fails to provide the information required and shall, by regulation, establish an administrative fee for review of staffing plans and for review of any required resubmission of staffing plans. The

deadlines and procedures established by the department for a resubmission of a staffing plan, shall apply to late re-submission, and subsequent annual submissions. Any late fines collected by the department shall be deposited in the Clara Barton Nursing Excellence Trust Fund established pursuant to Section 75 of Chapter 10.

(b) If the department determines that there is an apparent pattern of failure by a hospital to maintain or adhere to its filed staffing plan, the hospital may be subject to an inquiry by the department to determine the causes of the apparent pattern. If, after such inquiry, the department determines that an official investigation is appropriate and after issuance of written notification to the hospital, the department may conduct an investigation. Upon completion of the investigation and a finding of noncompliance, the department shall give written notification to the hospital about the manner in which the hospital failed to comply with this section. Hospitals shall be granted due process during the investigation, which shall include the following: (1) notice to hospitals that are noncompliant with section 56B; (2) the opportunity for hospitals to submit to the department, through written clarification, justifications for failure to comply with said section 56B; (3) corrective measures to be taken, if any, as determined by the department based upon such justifications which may include: (i) an official notice of failure to comply; (ii) the imposition of additional reporting and monitoring requirements; (iii) the imposition of fines, not to exceed \$3,000 for each finding of noncompliance; (iii) revocation of the facility's license or registration; and (iv) the closing of the particular unit that is noncompliant.

(c) A facility may appeal a measure or fine sought to be enforced by the department hereunder to the division of administrative law appeals and any such measure or fine shall not be enforced by the department until final adjudication by the division.

(d) The department may conduct random audits of a hospital's nurse staffing plan to ensure that its plan conforms to section 56B.

(e) The department shall promulgate regulations consistent with this section.

Section 56D. (a) Hospitals shall include in their quality improvement programs a process to collect, monitor and evaluate patient care through the statewide use of evidence-based nurse-sensitive performance measures, to be selected by the department. The department, in consultation with the Betsy Lehman center for patient safety and medical error reduction, the health care quality and cost council and the Massachusetts Hospital Association, Inc., shall select evidence-based nurse-sensitive performance measures from the nationally-recognized measures endorsed by the National Quality Forum and shall include, but not be limited to: patient falls, pressure ulcers, physical or sexual assault, pain management, peripheral IV infiltration; staff mix of registered nurses, licensed practical nurses, nurse assistants and unlicensed assistive personnel; nursing care hours provided per patient day, registered nurse education/certification, and an registered nurse satisfaction survey. The department shall develop a methodology to adjust these nursing care hours per patient day to account for differences in patient characteristics. The department shall develop a uniform format for hospitals to quarterly report on the selected performance measures to the department. The department shall annually report to the general public hospital-specific performance measure data, aggregated industry trends and best practices developed from these reports.

(b) The department shall develop a risk-adjusted methodology to compare patient outcomes using nurse sensitive quality measures as related to registered nursing care per patient day in order to rank nursing care among all acute care hospitals as reported in the quarterly

reports submitted pursuant to this section and shall provide these comparative rankings to the health care quality and cost council for public posting in conjunction with other hospital quality measures. The department shall not disclose any information to the public unless the information has been reviewed, adjusted, and validated according to the following process:

1. The department shall organize an advisory committee, including representatives from the department, public and private hospitals, direct care nursing staff, nursing leaders, physicians, academic researchers, consumers, health insurance companies, organized labor and organizations representing hospitals and physicians. The advisory committee must be meaningfully involved in the development of all aspects of the department's methodology for collecting, analyzing and disclosing the information collected under this section, including collection methods, formatting, and methods and means for release and dissemination.

2. (ii) The entire methodology for collecting and analyzing the data shall be disclosed to all relevant organizations and to all hospitals that are the subject of any information to be made available to the public before any public disclosure of such information.

3. (iii) Data collection and analytical methodologies shall be used that meet accepted standards of validity and reliability before any information is made available to the public.

4. (iv) The limitations of the data sources and analytic methodologies used to develop comparative hospital information shall be clearly identified and acknowledged, including but not limited to, the appropriate and inappropriate uses of the data.

5. (v) To the greatest extent possible, comparative hospital information initiatives shall use standard-based norms derived from widely accepted provider-developed practice guidelines.

399 6. (vi) Comparative hospital information and other information that the department has  
400 compiled regarding hospitals shall be shared with the hospitals under review prior to public  
401 dissemination of such information and these hospitals shall have 30 days to make corrections and  
402 to add explanatory comments about the information before the publication.

403 7. (vii) Comparisons among hospitals shall adjust for patient case mix and other relevant risk  
404 factors and control for provider peer groups, when appropriate.

405 8. (viii) Effective safeguards to protect against the unauthorized use or disclosure of hospital  
406 information shall be developed and implemented.

407 9. (ix) Effective safeguards to protect against the dissemination of inconsistent, incomplete,  
408 invalid, inaccurate or subjective hospital data shall be developed and implemented.

409 10. (x) The quality and accuracy of hospital information reported under this section and its data  
410 collection, analysis, and dissemination methodologies shall be evaluated regularly.

411 11. (xi) Only the most basic identifying information from mandatory reports shall be used, and  
412 information identifying a patient, employee, or licensed professional shall not be released. None  
413 of the information the department discloses to the public under this section may be used to  
414 establish a standard of care in a private civil action.

415 Section 56E. The department shall establish minimum patient care performance  
416 benchmarks for all hospitals based on the evidence-based nurse-sensitive measures collected  
417 pursuant to section 56D. The minimum benchmarks shall be based on national and regional  
418 quality measurements, further adjusted for hospitals with fewer than 100 acute care licensed  
419 beds, and shall be developed in consultation with the Betsy Lehman center for patient safety and

medical error reduction, the health care quality and cost council and the Massachusetts Hospital Association, Inc. A hospital that fails to meet these minimum patient performance benchmarks shall be required by the department to implement a remedial plan design to improve patient care. The plan shall incorporate evidence-based measures and strategies for improving nurse sensitive patient outcome measures which may include specific registered nurse to patient limits, if, in the opinion of the department, such staffing limits are needed to improve patient care safety and health care quality. The setting of nurse patient limits for registered nurses shall not result in the understaffing or reductions in staffing levels of the health care workforce.

Section 56F. (a) A hospital shall not require or permit a nurse to work more than 12 hours in any given shift or to exceed 16 hours in a 24 hour period. A nurse may not be disciplined, dismissed or discharged for refusing to work beyond the hours specified in this paragraph. A nurse who works 12 consecutive hours in a shift shall be given at least 8 hours off from any work between shifts. For the purposes of this paragraph, it shall not be the responsibility of the employer to ensure that a nurse has not violated the limitation of hours worked as specified in this section except for those hours worked in the employment of the employer. Nurses shall solely be responsible for certifying with the board of registration in nursing compliance with the provisions of this subsection during their applicable licensure renewal period.

(b) A hospital shall be limited to using mandatory overtime for emergency situations where the safety of a patient requires its use and when there is no reasonable alternative. Whenever a nurse is required to work mandatory overtime, the hospital shall document, in an aggregated manner, such use in the annual nurse staffing plan as filed with the department pursuant to Chapter 111, Section 56A.

(c) Nothing in this section shall be construed to limit, alter or modify the terms, conditions or provisions of a collective bargaining agreement entered into by the hospital.

**SECTION 5.** Notwithstanding any general or special law to the contrary, the secretary of administration and finance, in consultation with the secretary of health and human services, shall make an investigation and study of all state agencies or quasi-state agencies to determine the efficacy of existing programs related to health care workforce development and shall file a report with the general court by June 30, 2010 with recommendations for the development of new or redesigned programs to create a pathway for an enhanced health care workforce that shall be needed to adequately care for the people of the Commonwealth by 2020. The investigation and study shall include, but not be limited to, identification of ways to increase the number and diversity of people choosing health care occupations and to increase retention rates among current health care workers in the commonwealth, and recommend actions for measures to coordinate solutions to health care worker shortage in the commonwealth as determined by the department of public health.

**SECTION 6.** Notwithstanding any general or special law to the contrary, the department of higher education, in collaboration with the department of labor and workforce development, the board of registration in nursing, the nursing advisory board established pursuant to section 16H of chapter 6A of the General Laws, and the Massachusetts Center for Nursing, Inc., and the nurse scholar program established pursuant to section 19F of chapter 15, shall make an investigation and study of the nurse faculty shortage in the commonwealth and file a report back with to the clerks of the senate and house of representatives by June 30, 2010 with recommendations to enhance the nurse faculty pipeline within the commonwealth. The investigation and study shall include, but not be limited to, the collection and analysis of nursing



data, including: school capacity data including numbers of doctoral and masters prepared faculty; budgeted and vacant positions; projections on intentions to retire; data on the number of students who have been turned away or are on waiting lists due to the shortage of budgeted faculty positions; vacant faculty positions; the capability of both undergraduate and graduate schools to develop nursing programs based on the number of qualified undergraduate or graduate students interested in nursing and the number of available faculty to develop a nursing program, or lack of clinical placement sites; the supply of masters and doctoral prepared nurses in the commonwealth who might be available to move into education positions; and the types and components of partnerships between schools and healthcare facilities focused on sharing of resources to enhance nursing education, research or leadership development. The investigation and analysis shall be conducted on a statewide basis and shall involve both publicly funded and private schools to provide comprehensive data on the current and future extent of the faculty shortage. The investigation shall also produce an analysis of the feasibility of developing a web-based, automated scheduling or staffing system for nursing units on a statewide basis that could be made available to health care facilities on a subscription basis.

**SECTION 7.** Notwithstanding any general or special law to the contrary, the executive office of housing and economic development, in collaboration with the board of education, the department of higher education, and the Massachusetts Hospital Association, Inc., shall develop a comprehensive statewide plan to promote healthcare professions to the general public. The plan shall include specific recommendations that various state agencies may act upon to further the goals of enhancing public interest in health care professions, including but not limited to, methods targeting school-aged children and adults seeking a change in career and increasing the

supply of health care workforce. The department shall complete this plan and file a copy with the clerks of the house of representatives and the senate not later than April 15, 2010.

**SECTION 8.** Notwithstanding any general or special law to the contrary, the executive office of health and human services and all agencies, departments and boards within this secretariat, the department of labor and workforce development, the department of higher education and any other state agency, board or department that collects data, conducts surveys or gathers information related to the practice of nursing, the supply of nursing workforce, the supply of nursing faculty or other nursing workforce issues shall regularly submit this data and information to the Massachusetts Center for Nursing, Inc.

**SECTION 9.** Notwithstanding any general or special to the contrary, the department of higher education shall establish an advisory committee consisting of 7 members who shall be professionals representing the nursing profession. At least 4 of the members shall be nursing educators from higher education institutions and the remaining members shall be nurses in practice. The advisory committee shall advise the department about the practice of nursing and how to implement this act in a manner that would best benefit the profession of nursing and fulfill the goals of recruiting and retaining people to the profession of nursing.

**SECTION 10.** Notwithstanding any general or special law the contrary, the department of public health shall develop guidelines for every licensed health care facility to implement an evidence-based policy for safe handling and movement of patients for all shifts and all patient care personnel based on minimum ergonomic standards to reduce the injury rates associated with manual patient handling.

509           **SECTION 11.** There shall be a special commission for the purpose of studying the

510 limitations of nursing hours in order to reduce fatigue and to improve patient care in hospitals.

511 The commission shall review and study the most current studies and clinical evidence regarding

512 limitation of nursing hours and the effect of such limitation on fatigue and patient safety. The

513 commission shall also work with hospitals to identify the best practices to be used in

514 implementing such limitations on nursing hours. The commission shall consist of the

515 commissioner of public health, and a representative from each of the following: the

516 Massachusetts Hospital Association, Inc., the Massachusetts Organization of Nurse Executives,

517 Inc., the Massachusetts Nurses Association, the Massachusetts Association of Registered Nurses,

518 Inc., the Massachusetts Medical Society, the Blue Cross and Blue Shield of Massachusetts, Inc.,

519 the Massachusetts Association of Health Plans, the Associated Industries of Massachusetts, Inc.,

520 the Massachusetts League of Community Health Centers, 3 teaching and 3 community Hospitals,

521 as the department may determine, a chronic disease hospital, an inpatient rehabilitation hospital,

522 the Massachusetts Coalition for the Prevention of Medical Errors, Inc., the Massachusetts

523 Association of Colleges of Nursing, and, as the department may determine, a representative from

524 community colleges, other nursing organizations, nursing schools and medical schools. The

525 commission shall be jointly chaired by the chairs of the joint committee on health care financing.

526 No action of the commission shall be considered official unless approved by a majority of its

527 members. The commission shall file its final report and any recommendations for legislation and

528 revisions to this act regarding limitation of nursing hours to reduce fatigue and improve patient

529 care with the clerks of the senate and house of representatives, the house and senate committees

530 on ways and means, the house and senate chairs of the joint committee on health care financing,

531 the house and senate chairs of the joint committee on public health, the Betsy Lehman center for  
532 patient safety and error reduction and with the governor not later than April 15, 2010.

533 **SECTION 12.** Section 4 of this act shall take effect on October 1, 2011.